

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

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|-------------------------------|---|-------------------------|
| MICHAEL TODD, |) | |
| |) | |
| Plaintiff, |) | Case No.: 1:22-cv-00066 |
| |) | |
| vs. |) | |
| |) | |
| CENTENE CORPORATION and |) | |
| COORDINATED CARE CORPORATION, |) | |
| |) | |
| Defendants. |) | |
| |) | |

DEFENDANTS' NOTICE OF REMOVAL

Defendants Centene Corporation and Coordinated Care Corporation hereby remove this action from the Monroe County Circuit Court to the United States District Court for the Southern District of Indiana, Indianapolis Division. Removal is based on federal question jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1441. Federal question jurisdiction arises under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* ("TCPA"). Removal is authorized by 28 U.S.C. §§ 1441 and 1446.

THE STATE COURT ACTION

1. Plaintiff Michael Todd brought suit against Defendants on December 16, 2021 in the Circuit Court of Monroe County, Indiana. This action is identified in that court as *Michael Todd v. Centene Corporation & Coordinated Care Corporation*, No. 53C04-2112-MI-002595 (the "State Court Action"). Exhibit 1 to this Notice is a true and correct copy of the State Court Record, consisting of following: (1) the state court docket, (2) Plaintiff's appearance, (3) the complaint, (4) the summonses, (5) the Amended Complaint, and (6) Defendants' appearance.

2. Defendants were first served with summonses and the complaint on December 20, 2021.

3. Defendants were served with the Amended Complaint on December 22, 2021. A true and correct copy of the Amended Complaint is attached to this Notice as Exhibit 2.

4. Plaintiff's Amended Complaint contains 20 purported claims for alleged violations of the TCPA and two purported causes of action under Indiana law for intrusion upon seclusion and negligence per se.

BASIS FOR REMOVAL

I. Removal is proper because the Court has federal question jurisdiction.

5. This Court's subject matter jurisdiction and the basis for removal is founded upon federal question jurisdiction. *See* 28 U.S.C. § 1331. Section 1331 provides, "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." Here, Plaintiff's Amended Complaint gives rise to federal question jurisdiction through multiple counts based on alleged violations of the TCPA. *See* Am. Compl., Counts 1-20. Therefore, removal is appropriate given that Plaintiff's TCPA claims arise under the laws of the United States. *See* 28 U.S.C. § 1331; *Mims v. Arrow Fin. Services, LLC*, 565 U.S. 368, 387 (2012) (holding that federal courts have jurisdiction over TCPA claims under § 1331).

6. This Court has supplemental jurisdiction over Plaintiff's two state law claims because they are based on the same course of action (*i.e.*, five telephone calls) as Plaintiff's 20 TCPA claims, making them a part of the same case or controversy pursuant to 28 U.S.C. § 1367(a). *See* Am. Compl., Counts 21-22; *see also Prolite Building Supply, LLC v. MW Manufacturers, Inc.*, 891 F.3d 256, 258 ("[S]upplemental jurisdiction is appropriate [under § 1367(a)] when the supplemental claim involves the same parties, contracts, and *course of action* as the claim conferring federal jurisdiction.") (emphasis added).

II. Defendants have complied with the procedural requirements for removal.

7. Venue is proper under 28 U.S.C. §§ 1441(a) and 1446(a) because the Southern District of Indiana, Indianapolis Division, embraces the Circuit Court of Monroe County, Indiana, where the State Court Action was originally commenced.

8. This Notice has been filed within 30 days of the date Defendants were served with the Amended Complaint as required by 28 U.S.C. § 1446(b)(3). The Original Complaint did not contain a TCPA claim and was not removable under 28 U.S.C. § 1331.

9. Defendants will promptly provide written notice of the filing of this Notice and file a copy of this Notice with the Clerk of the Circuit Court of Monroe County as required by 28 U.S.C. § 1446(d).

10. Exhibit 1 contains all process, pleadings, orders, and all other filings required to be filed with this Notice pursuant to 28 U.S.C. § 1446(a) and Local Rule 81-2(a).

11. Defendants are the only two defendants named in the State Court Action and both join in this removal under 28 U.S.C. § 1446(b)(2).

12. If any questions arise as to the adequacy or propriety of the removal of this action, Defendants request the opportunity to supplement this Notice with evidence and/or to brief any disputed issues and present oral argument in support of this removal.

13. Defendants reserve all objections it may have to service, personal jurisdiction, or any other defenses or objections it may have to the Amended Complaint or State Court Action.

14. Defendants intend no admission of fact, law, or liability by this Notice.

For these reasons, Defendants remove this case from the Circuit Court of Monroe County, Indiana to the United States District Court for the Southern District of Indiana, Indianapolis Division.

Dated: January 12, 2022

Respectfully submitted,

/s/ P. Russell Perdew

P. Russell Perdew

Indiana Bar No. 22617-45

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Attorney for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of January 2022, a true and correct copy of the foregoing was filed with the Clerk of the Court via the Electronic Filing System. A copy was also served on that day via e-mail on:

Michael Todd
844 West Rosewood Drive
Bloomington, IN 47404
(812) 322-3563
michael@todd204.com

/s/ P. Russell Perdew
P. Russell Perdew